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10/820,986	04/08/2004	Rey Bravo	LCB420	9039
32915	7590	08/20/2007	EXAMINER	
PANDUIT CORP. LEGAL DEPARTMENT - TP12 17301 SOUTH RIDGELAND AVENUE TINLEY PARK, IL 60477			NEWTON, JARED W	
			ART UNIT	PAPER NUMBER
			3692	
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			08/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/820,986

Applicant(s)

BRAVO ET AL.

Examiner

Jared W. Newton

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 20, 32, 34, 46, 47 and 49-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 20, 32, 34, 46, 47 and 49-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 11, 2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 56-60 and 69-73 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 56 and 69 recite, "a plurality of fans disposed on opposing sides of the rack between adjacent trays" in lines 2-3. The Specification and Drawings describe the fans 30 as only on one side (the front, right hand side) of the rack (see FIG. 4). Moreover, if the noted recitation is intended to describe the fans as disposed on sides of

Art Unit: 3692

the rack that oppose the trays, the language is indefinite, because the trays are "pass-through," and therefore disposed on both the front and back sides of the rack.

Claims 56-60 and 69-73 should be canceled, or the shown as effectively enabled by specific reference to the specification. In view of these rejections, claims 56-60 have not been treated in terms of prior art.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8, 32, 47, 50-60 and 70 and claims 20, 34, 46, 49 and 61-74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 1-8, 32, 47 and 50-60 and claims 20, 34, 46, 49 and 61-74, the recitation, "being large enough to permit the cables to pass between the spool..." in lines 9-10 of claim 1 (and lines 13-14 of claim 20) renders the claims (and the claims that depend therefrom) indefinite. A cable is not an element of the claimed invention and it is improper to seek to define claimed structure based on a comparison to some unclaimed element. In this case, the metes and bounds of the claims cannot be properly ascertained because one would not know whether their device infringed the instant claims until someone else later added a cable. In other words, the claimed dimension that must be "large enough" can only be determined once an unclaimed cable is placed

on the rack. Accordingly, the features of the device itself must be defined instead of relying upon a comparison with an unclaimed element.

Claims 58 is further rejected for reasons set forth immediately above because of the recitation, "sized to permit a single cable to be retained therein."

Claims 70 is further rejected for reasons set forth immediately above because of the recitation, "sized to permit a single cable to be retained therein."

Claim 55 is further rejected because it recites the limitation "each opening" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,250,816 to Johnston et al. (hereafter Johnston).

In regard to claim 1, Johnston discloses a cable management system for routing cables thereon, said system including a rack (see FIG. 1) having a front side and a rear side and said rack comprising: a frame "R;" and a frame mountable pass-through tray 10 disposed on said frame, said tray having a base and sidewalls 23,24 (see FIG. 5) defining a front-to-back channel in a center of the tray for routing said cables between the front and rear sides of said rack (see FIG. 1), said pass through tray including at

Art Unit: 3692

least one upstanding spool 72 (see FIG. 10) disposed substantially at the center of the tray via mounting track 75, a width of the front-to-back channel being substantially constant along a length of the channel (see FIG. 5) and being large enough to receive cables.

In regard to claim 2, Johnston further discloses at least one mounting portion "B" extending substantially perpendicularly from each of the sidewalls for permitting said tray to be mounted to said frame (see FIG. 1).

In regard to claim 3, Johnston further discloses said mounting portion including a mounting flange extending from each of said sidewalls of said front-to-back channel and a secondary mounting flange opposing the mounting flange and facing the sidewall (see FIG. 9).

In regard to claim 4, Johnston further discloses each of said side walls including a bend radius control portion 34B,35B (see FIG. 5; see also col. 4, lines 28-31).

In regard to claim 5, Johnston further discloses said tray including a rear channel defined by openings 27 and 28, wherein the rear faces the viewer as shown in Figures 2 and 3, and said rear channel adjacent to said front-to-back channel and containing a trough along which clips 74 are disposed generally planar with and connected to said base, and a rear wall 16 on an opposite side of said trough as said base (see FIG. 2).

In regard to claim 6, said rear channel includes a waterfall 35B extending parallel to said front-to-back channel (see FIG. 2).

In regard to claim 8, Johnston further discloses said tray including a rear channel defined by openings 30 and 32 (see FIG. 4), wherein the rear faces the viewer in Figure

Art Unit: 3692

4, said channel extending substantially perpendicular to the front-to-back channel, and a secondary mounting flange extending from a sidewall 24 defining the opening of said rear channel (see FIG. 5).

In regard to claim 32, said spool is freestanding such that it is isolated from all walls of said tray (see FIG. 5).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 34, 46, and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston as applied to claim 1 above, alone.

In regard to claims 20, 34, 46 and 74, the examiner takes official notice that the limitation of a plurality of racks does not carry patentable weight over the rack as set forth by Johnston. Johnston discloses a cable management rack having a pass-through tray according to the rejections of claims 1-6, 8, and 32 under 35 U.S.C § 102 set forth above. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide more than one of the racks as set forth by Johnston, and to route cables between said racks, as is well known in the art. See *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). The court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.

Art Unit: 3692

Claims 7 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston as applied to claims 1 and 46 above, and further in view of US Patent No. 6,365,834 to Larsen et al. (hereafter Larsen).

In regard to claims 7 and 63, Johnston discloses the rack as set forth above but does not disclose rear elevator portions.

Larsen discloses a cable management rack comprising waterfall portions and a rear vertical elevator, wherein said waterfalls extend laterally in a direction perpendicular to the direction taken from the front of the rack to the rear of the rack (see FIG. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the rear waterfall portions of the rack as set forth by Johnston with the elevator portions as set forth by Larsen. The use of said rear elevators are well known in the art, and would be an obvious improvement to the rack as set forth by Johnston, by providing cable guidance and retention down the vertical side of the rack—a motivation set forth by Larsen.

Claims 50 and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston as applied to claim 1 above, and further in view of US Patent No. 6,256,444 to Bechamps et al. (hereafter Bechamps).

Johnston discloses the system for routing cable as set forth above, but does not disclose a slack manager.



In regard to claim 50, Bechamps discloses an equipment rack having an adjustable guide for routing optical fibers, wherein said guide comprises a plurality of spools at different elevations attached to the vertical side rail of said rack (see FIG. 1).

In regard to claim 52, said plurality of spools (for instance spools B and E – see FIG. 3) are vertically aligned, and at least one of said spools (for instance spool A) is not aligned with the set of spools.

In regard to claim 53, the at least one spool A is more proximate to the vertical side rail than the set of spools B,E (see FIG. 3).

In regard to claim 54, the at least one spool A is the lowermost spool (see FIG. 3).

In regard to claim 55, *insomuch as understood in view of the 35 U.S.C. § 112 Rejections above*, Johnston discloses the bend radius control portions as set forth above.

The Johnston and Bechamps references are analogous art because they are from the same field of endeavor—cable management racks. It would have been obvious to one of ordinary skill in the art at the time of the invention to attach the adjustable routing guide disclosed by Bechamps to the side rail of the rack disclosed by Johnston. The motivation would have been that as disclosed by Bechamps (see col. 7, lines 27-64)—to provide an adjustable means of supporting excess cable that passes through the openings of the tray disclosed by Johnston (i.e. cables “C” in Figure 1).

Claims 47, 49, 61 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston as applied to claims 1 and 20 above, and further in view of US Patent Application Publication No. 2002/0170726 to Mendoza (hereafter Mendoza).

Johnston discloses the system for routing cable as set forth above, but does not disclose said mounting flanges mounting the tray to the frame at both the front and rear sides of the rack.

In regard to claims 47, 49, 61 and 62, Mendoza discloses a cable management system, wherein said system comprises pass-through mounts 10 (see FIG. 24) attached to vertical frame members 22 via mounting plates comprising front and rear mounting flanges having respective mounting holes 210 and 216 that attach respectively to the front and rear of said vertical frame members (see id).

The Johnston and Mendoza references are analogous art because they are from the same field of endeavor—cable management racks. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the front and rear mounting flanges disclosed by Mendoza to the tray disclosed by Johnston. Both references teach a means for attaching a tray or other component to a rack having vertical side rails. It would have been obvious to one skilled in the art to substitute one means for the other to achieve the predictable result of mounting the tray/component.

Claims 64 and 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston as applied to claims 1 and 46 above, and further in view of US Patent No. 7,083,051 to Smith et al. (hereafter Smith).

In regard to claim 64, Johnston discloses the rack according to the limitations of claim 20 as set forth above. Johnston does not disclose a slack manager having a plurality of spools at different elevations, wherein the slack manager of a first of the adjacent racks is connected to a second of the adjacent racks such that the slack manager of the first of the racks is disposed between adjacent racks. Smith discloses a cable management assembly having adjacent racks having vertical columns 104, 108, and a vertical spool arrangement 10 disposed therebetween, having a plurality of vertically aligned spools 50 (see FIG. 1).

In regard to claims 66-68, Smith further discloses said spools being vertically and horizontally adjustable along said arrangement 10, suggesting multiple possibilities for said arrangement, including an arrangement where at least one of the spools is out of alignment with the set of spools such that a distance between the at least one of the spools and the vertical side rail of the rack is different than a distance between the set of spools and the vertical side rail of the rack, and wherein the at least one of the spools is more proximate to the vertical side rail than the set of spools, and the at least one of the spools comprises the spool adjacent to a lowermost spool of the plurality of spools.

The Johnston and Smith references are analogous art because they are from the same field of endeavor—cable management racks. It would have been obvious to one of ordinary skill in the art at the time of the invention to dispose the spool arrangement disclosed by Smith between two of the racks disclosed Johnston. The motivation would have been to provide an adjustable means for supporting and routing excess cable extending from the tray disclosed by Johnston.

***Allowable Subject Matter***

Claims 51 and 65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and if further rewritten to overcome the rejections under 35 U.S.C. § 112 set forth above.

***Response to Arguments***

Applicant's arguments filed June 11, 2007 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:


- US Patent No. 7,006,748 to Dagley
- US Patent No. 6,850,685 to Tinucci
- US Patent No. 6,633,717 to Knight
- US Patent No. 6,631,875 to Kampf
- US Patent No. 6,541,705 to McGrath
- US Patent No. 5,937,131 to Haataja
- US Patent Application Publication No. 2004/0037533 to Knudsen

Art Unit: 3692

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JWN  
August 13, 2007

  
RICHARD E. CHILCOTE, JR.  
SUPERVISORY PATENT EXAMINER